

by the Act and should be rejected by the FCC. The FCC should approve the contract language proposed by Cox at Section 10 of the Summary-Disputed Issues (Exhibit 3).

11. VZ-VA MAY NOT EXCLUDE FROM THE INTERCONNECTION AGREEMENT RATES, TERMS AND CONDITIONS RELATING TO THE TRANSIT TRAFFIC ARRANGEMENT ADOPTED UNDER FCC MERGER CONDITIONS.

Cox notified VZ-VA of its intent to adopt for Virginia the transit traffic arrangement¹⁰ contained in an existing interconnection agreement between affiliates of Cox and Verizon in Rhode Island. To accomplish this, Cox intends to adopt pertinent provisions from the Bell Atlantic-Rhode Island/Cox (BA-RI/Cox) interconnection agreement, pursuant to paragraph 32 of the Bell Atlantic/GTE Merger Conditions. *See, Conditions for Bell Atlantic/GTE Merger, In re Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, Memorandum Opinion and Order, FCC 00-221, CC Docket No. 98-184 (released June 16, 2000).*

¹⁰ Transit traffic is defined, from VZ-VA's standpoint, as traffic originated by one carrier and terminated by another with VZ-VA serving an intermediary role in switching the traffic between them.

While VZ-VA has expressed during negotiations no objection to this adoption, a controversy has arisen over the proper methodology that should be employed to implement Cox's intent. Cox believes that the terms and conditions of the transit traffic arrangement in the BA-RI/Cox agreement should be included in the Renewal Agreement. This is consistent with Cox's view that all rates, terms and conditions dealing with interconnection, resale and unbundled network elements should be included either in an interconnection agreement or an amendment thereto.

While there appears to be no dispute over whether VZ-VA will make this arrangement available to Cox in Virginia, VZ-VA rejected Cox's proposal to include the terms and conditions relating to it in the Renewal Agreement. VZ-VA contends that such an adoption should take place outside the Renewal Agreement. VZ-VA proposes instead that Cox submit notice of its adoption to the Virginia Commission where this matter would be handled in a proceeding separate from the Renewal Agreement.

Cox urges the FCC to rule that the terms and conditions of this transit traffic arrangement from the BA-RI/Cox interconnection agreement should be included in the Renewal Agreement. The FCC should approve the contract language proposed by Cox at Section 11 of the Summary-Disputed Issues (Exhibit 3). Since this is a strictly legal issue regarding whether adopted terms and conditions should form part of the Renewal Agreement, Prof. Collins' Testimony (Exhibit 7) does not address this issue.

B. DISPUTED ISSUES THAT HAVE BEEN SETTLED

Since Cox's petition for state arbitration was filed with the Virginia Commission, Cox and VZ-VA have continued to negotiate in an effort to resolve both Disputed Issues and Open issues. Two Disputed Issues have been settled during the course of those negotiations. Additionally, a substantial number of Open Issues have been resolved. The following discussion deals with the two Disputed Issues that have been settled.

1. The parties disagreed as to whether language should be added to the Renewal Agreement dealing with VZ-VA's requirements under Sections 251 and 271 of the Act. This issue was resolved when the parties agreed to omit such language.

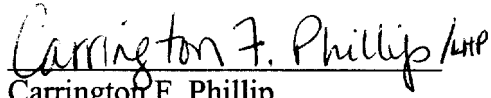
2. The parties disagreed over the manner in which Cox would handle VZ-VZ's interLATA toll traffic in the event that VZ-VA is granted Section 271 relief for Virginia. This issue was resolved when the parties agreed to omit any reference in the Renewal Agreement to Cox's obligations in this regard and to discuss any need for amending the Renewal Agreement as such time as VZ-VA is granted such authority.

V. CONCLUSION

For the reasons stated above, the supporting direct testimony of Professor Collins, and the other documentation filed in this docket, Cox respectfully requests that the FCC preempt the Virginia Commission's jurisdiction and arbitrate the interconnection terms and conditions being disputed by Cox and VZ-VA. Further, Cox respectfully requests the FCC to grant Cox the relief sought herein and resolve the Disputed Issues, as well as any Open Issue that rises to the level of a Disputed Issue, in accordance with Cox's submissions in this case.

Respectfully submitted,

COX VIRGINIA TELCOM, INC.

A handwritten signature in cursive script that reads "Carrington F. Phillip" followed by a small monogram "LHP".

Carrington F. Phillip,

Vice President Regulatory Affairs

Donald L. Crosby,

Senior Counsel

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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 1, 2000

PETITION OF

COX VIRGINIA TELCOM, INC.,
Requesting Party,

CASE NO. PUC000212

v.

VERIZON VIRGINIA INC. f/k/a
BELL ATLANTIC-VIRGINIA INC.,
Responding Party

For declaratory judgment and
conditional petition for arbitration
of unresolved issues by the State
Corporation Commission pursuant to
Section 252 of the Telecommunications
Act of 1996 or alternative petition
for dismissal

ORDER OF DISMISSAL

On July 27, 2000, Cox Virginia Telcom, Inc. ("Cox"), filed its Petition for Declaratory Judgment and Conditional Petition for Arbitration or Alternative Petition for Dismissal ("Petition"). The Petition first requests the Commission to issue a declaratory judgment that the requested arbitration of interconnection terms and conditions between Cox and Verizon Virginia Inc. f/k/a Bell Atlantic-Virginia Inc. ("Verizon Virginia"), proposed conditionally by Cox, shall be conducted by this Commission pursuant to Section 252 of the Telecommunications Act of 1996, 47 U.S.C. § 151, *et seq.* ("the

Act"). If the Commission should not grant the declaratory judgment sought, then Cox requests that its Petition be dismissed.¹

Verizon Virginia, by counsel, filed a letter in response to the Cox Petition on August 16, 2000, averring that it was under no duty to respond in conformance with the requirements of Section 252(b)(3) of the Act because the Petition conditionally requested this Commission to arbitrate an interconnection agreement under the Act. Verizon Virginia maintains that the Act does not speak to conditional petitions, and that as the non-petitioning utility, Verizon Virginia is under no duty to file a response to Cox's conditional petition to arbitrate.

Cox filed comments on September 11, 2000, responding to Verizon Virginia's letter filed August 16, 2000. Cox points out in its comments that Verizon Virginia has filed no objection to the judgment sought by Cox declaring that the Commission proceed under the Act to arbitrate the interconnection agreement between Cox and Verizon Virginia. Cox also alleges in its comments that Verizon Virginia has failed to comply with our rules implementing Section 252 of the Act, 20 VAC 5-400-190 C 2.

¹ Cox seeks an express statement in the dismissal by this Commission "that it will neither take action on Cox's Conditional Petition for Arbitration nor act to carry out the responsibilities of State commissions under 47 U.S.C. § 252, so that the Federal Communications Commission ("FCC") might take jurisdiction over this arbitration pursuant to 47 U.S.C. § 252(e)(5). . . .".

The Commission finds that it cannot rule on the declaratory relief sought by Cox as such ruling might be considered an exercise of jurisdiction under the Act and, therefore, a waiver of the Commonwealth's sovereign immunity. We recognize that the attention drawn by Cox (i.e., its petition for declaratory judgment) to this jurisdictional matter is simply to anticipate being given the same choice offered to Cavalier Telephone, LLC, by our Order of June 15, 2000, in Case No. PUC990191. There, we allowed Cavalier either to pursue the resolution of interconnection issues under state law or to take its petition for arbitration under the Act to the Federal Communications Commission ("FCC").

As discussed in our Order of June 15, 2000, in Case No. PUC990191,² the Commission has authority under state law to order interconnection between carriers operating within the Commonwealth, and § 56-38 of the Code of Virginia authorizes us, upon request of the parties, "to effect, by mediation, the adjustment of claims, and the settlement of controversies, between public service companies, and their employees and patrons." Further, our rules codified at 20 VAC 5-400-180 as "Rules Governing the Offering of Competitive Local Exchange Telephone Service" anticipate that we would address

² Petition of Cavalier Telephone, LLC, For arbitration of interconnection rates, terms and conditions, and related relief, Document Control Center No. 000630199.

interconnection issues under the authority of the Virginia Code. Rules 20 VAC 5-400-180 F 5 and 6 specifically provide for our "arbitration" of contested matters. We stand ready to arbitrate this matter pursuant to these state authorities should Cox so request.

However, as evidenced by its Petition, Cox prefers to proceed with its arbitration of unresolved issues with Verizon before the FCC under the Act rather than before this Commission pursuant to 20 VAC 5-400-180 F 6 and other state authority. Cox has requested dismissal of its Petition in the event that this Commission does not proceed under the Act. We note that under present controlling federal authority,³ any action taken by us pursuant to 252(b) of the Act effects a waiver of the sovereign immunity of the Commonwealth. We previously have found no authority, and the parties here have suggested none, that would empower us to waive the Commonwealth's constitutional immunity from suit under the Eleventh Amendment to the U.S. Constitution. Until the issue of Eleventh Amendment immunity from federal appeal under the Act is resolved by the Courts of the United States,⁴ we will not act solely under the Act's federally

³ See GTE South Inc. v. Morrison, 957 F. Supp. 800 (1997); GTE South Inc. v. Morrison, 6 F. Supp. 2d 517, aff'd., 199 F. 3d 733 (4th Cir. 1999); AT&T of Virginia v. Bell Atlantic-Virginia, Inc., 197 F. 3d 663 (4th Cir. 1999).

⁴ The 4th Circuit currently has pending before it a case involving sovereign immunity, BellSouth Telecommunications, Inc. v. North Carolina Utilities

conveyed authority in matters that might arguably implicate a waiver of the Commonwealth's immunity, including the arbitration of rates, terms, and conditions of interconnection agreements between local exchange carriers.

Therefore, we will grant Cox's alternative request to dismiss this Petition so that it may proceed before the FCC. If Cox does proceed to the FCC, it shall be the responsibility of Cox to serve copies of all pleadings filed herein upon the FCC.

Accordingly, IT IS ORDERED THAT:

(1) This case is hereby dismissed pursuant to the laws of the Commonwealth of Virginia, without prejudice, consistent with the findings above. This Commission will not arbitrate the interconnection issues under federal law for the reasons given above.

(2) There being nothing further to come before the Commission this case is closed.

Commission, No. 99-1845(1), which was argued May 1, 2000. As of the date of this Order, the 4th Circuit has not ruled on this matter.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

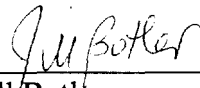
In the Matter of

Petition of Cox Virginia Telcom, Inc.)	
Pursuant to Section 252(e)(5) of the)	CC Docket No. 00-_____
Communications Act for Preemption)	
Of the Jurisdiction of the Virginia)	
State Corporation Commission)	
Regarding Interconnection Disputes)	
With Verizon Virginia, Inc. and)	
For Arbitration)	

AFFIDAVIT OF JILL BUTLER

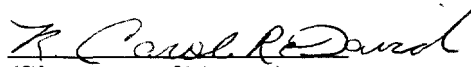
1. I, Jill Butler, am the Vice President of Regulatory Affairs of Cox Virginia Telcom, Inc. ("Cox").
2. Cox is a competitive local exchange carrier furnishing telephone services, including local service, in certain areas of the Commonwealth of Virginia in competition with Verizon Virginia, Inc. ("VZ-VA").
3. Cox entered into an interconnection agreement ("Initial Agreement") with Bell Atlantic-Virginia, Inc. ("BA-VA") on February 12, 1997. The Virginia State Corporation Commission ("Virginia Commission") approved the Initial Agreement on March 17, 1997, pursuant to the authority granted by Section 252(e) of the Telecommunications Act of 1996 ("the Act").
4. BA-VA changed its name to Verizon Virginia, Inc. following the merger of Bell Atlantic Corporation and GTE Corporation.
5. As provided by Section 22.1 of the Initial Agreement, Cox and VZ-VA have continued to operate under the terms of that agreement since its expiration on July 1, 1999.

6. Cox sent a letter via overnight delivery to VZ-VA on September 9, 1999, requesting negotiations for the renewal (the "Renewal Agreement") of the Initial Agreement.
7. During the numerous negotiating sessions conducted on behalf of both companies, beginning shortly after VZ-VA's receipt of Cox's letter, I have served as one of Cox's representatives.
8. Cox sent a letter via overnight delivery to VZ-VA Cox on February 17, 2000, in which Cox reinitiated negotiations. This action became necessary when the original negotiations failed to result in mutually agreeable terms for the Renewal Agreement within the deadline established through the September 9, 1999, request.
9. Because the reinitiated negotiations also failed to resolve the issues that divided the parties, Cox filed with the Virginia Commission a petition for state arbitration on July 27, 2000.
10. On November 1, 2000, the Virginia Commission dismissed Cox's petition for state arbitration, stating that it would not arbitrate the interconnection issues under federal law but offering to arbitrate under state law if Cox chose to do so.
11. In order to carry out its business plans for rigorous competition with VZ-VA in the Virginia telephony market, Cox needs an interconnection agreement that complies with both state and federal requirements. This goal could not be achieved by accepting the Virginia Commission's offer to arbitrate strictly under state law.
12. Cox must seek FCC preemption and arbitration in order to obtain, through one arbitration procedures, a single, unified interconnection agreement that determines the rights and obligations of Cox and VZ-VA under both state and federal law.
13. I hereby attest and state that the statements contained herein are true and correct to the best of my knowledge, information and belief.



Jill Butler

Subscribed and sworn to before me this 11th day of December, 2000.


(Signature of Notary)

My Commission Expires:

7-31-01
(Appropriate Date)

SUMMARY-DISPUTED ISSUES

12/12/2000

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
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1. VZ-VA may not, through its designations of interconnection points or by discounting the compensation it owes Cox, require Cox to pay for VZ-VA's delivery of VZ-VA's traffic to Cox's network.

1.1	(2.1) [Propose to delete]	<p>4.2.4 Geographic Relevance. In the event either Party fails to make available a geographically relevant End Office or functional equivalent as an IP and POI on its network, the other Party may, at any time, request that the first Party establish such additional technically feasible point as an IP and/or POI. Such requests shall be made as a part of the Joint Process established pursuant to subsection 10.1. A "geographically relevant" IP shall mean an IP that is located within the VZ-VA local calling area of equivalent VZ-VA end user Customers, but no greater than twenty five (25) miles from the VZ-VA Rate Center Point of the VZ-VA NXX serving the equivalent relevant end user Customers, or, with the mutual agreement of the Parties, an existing and currently utilized IP within the LATA but outside the foregoing VZ-VA local calling area and/or twenty five (25) mile radius. "Equivalent" customers shall mean customers served by either Party and which are assigned telephone numbers in the same Rate Center. If after thirty (30) days following said request such geographically relevant handoffs have not been made available by Cox, Cox shall bill and VZ-VA shall pay only the End Office Reciprocal Compensation rate for the relevant NXX less</p>	<p>VZ-VA attempts to confer upon Cox obligations that apply only to ILECs, <i>e.g.</i>, the obligation to interconnect with any requesting carrier at any technically feasible point within its network. See, 47 U.S.C. § 251(c)(2)(b).</p> <p>VZ-VA ignores the plain meaning of the Act by requiring Cox to interconnect at VZ-VA's IPs, rather than at <u>any</u> technically feasible point within VZ-VA's network and by proposing that Cox pay for VZ-VA's transport when/if Cox's chosen IP is farther than 25-miles from VZ-VA's end office/rate area. See, 1st R&O at 172 and 47 C.F.R. § 51.703(b).</p> <p>VZ-VA subverts the plain meaning and intention of the Act by ignoring the FCC's instruction that</p>	<p>VZ-VA wants Cox to establish "geographically relevant" interconnection points or to pay VZ-VA to transport VZ-VA's traffic to VZ-VA's Interconnection Points.</p>
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#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
		VZ-VA's transport rate from VZ-VA's originating End Office to Cox-IP.	<p>CLECs may choose their points of interconnection based on their own efficiencies – and may not be required to interconnect at other, less inefficient points:</p> <p>“The interconnection obligation of section 251(c)(2), discussed in this section, allows competing carriers to choose the most efficient points at which to exchange traffic with incumbent LECs, thereby lowering the competing carriers' costs of, among other things, transport and termination of traffic” 1st R&O at ¶172.</p> <p>“Section 251(c)(2) gives competing carriers the right to deliver traffic terminating on an incumbent LEC's network at any technically feasible point on that network, rather than obligating such carriers to transport traffic to less convenient or efficient interconnection points.” 1st R&O at ¶209</p> <p>VZ-VA's 'geographic relevance' provision is a scheme to get Cox to pay VZ-VA's costs for terminating VZ-VA's traffic</p>	

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
			<p>to Cox. VZ-VA's plan is discriminatory in that it imposes extra costs (that it itself is not obliged to pay) on its competitor.</p> <p>Under 47 C.F.R. § 51.703(b), a LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network.</p>	

2. VZ-VA may not require that Cox eliminate its mileage-sensitive rate element as a component of its entrance facilities rate.

2.1	[Propose to delete]	<p>4.3.9 In recognition of the large number and variety of VZ-VA-IPs available for use by Cox, Cox's ability to select from among those points to minimize the amount of transport it needs to provide or purchase, and the fewer number of Cox-IPs available to VZ-VA to select from for similar purposes, Cox shall charge VZ-VA no more than a non-distance sensitive Entrance Facility charge as provided in Exhibit A for the transport of traffic from a VZ-VA-IP to a Cox-IP in any given LATA.</p>	<p>VZ-VA ignores the plain meaning of the Act by proposing that Cox pay for VZ-VA's transport (1st R&O at ¶172 and 47 C.F.R. § 51.703(b)) because Cox may choose to interconnect at VZ-VA's end office or tandem (a choice of <i>two</i>) where VZ-VA may interconnect at Cox's end office (a choice of one).</p> <p>VZ-VA ignores the FCC's instruction that "Congress intended to obligate the incumbent to accommodate the new entrant's network architecture by requiring the incumbent to provide interconnection 'for the facilities and equipment'" of the new entrant. 1st R&O at</p>	<p>VZ-VA wants Cox to discount its mileage-sensitive rate element for interconnection facilities leased by VZ-VA.</p>
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#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
			<p>¶202.</p> <p>"New entrants will request interconnection pursuant to section 251(c)(2) for the purpose of exchanging traffic with incumbent LECs. In this situation, the incumbent and the new entrant are co-carriers and each gains value from the interconnection arrangement. Under these circumstances, it is reasonable to require each party to bear a reasonable portion of the economic costs of the arrangement." 1st R&O at ¶553.</p> <p>This is yet another scheme to get Cox to pay VZ-VA's costs for terminating VZ-VA's traffic to Cox. VZ-VA's plan is discriminatory in that it imposes extra costs (that it itself is not obliged to pay) on its competitor.</p>	
2.2	[Propose to delete]	<p>4.5.3 Unless otherwise agreed to by the Parties, the Parties shall designate the Wire Center(s) Cox has identified as its initial Rating Point(s) in the LATA as the Cox-IP(s) in that LATA and shall designate a mutually agreed upon Tandem Office or End Offices within the LATA nearest to the Cox-IP (as measured in airline miles utilizing the V and H coordinates method) as the VZ-VA-IP(s) in that LATA, provided that, for the purpose of charging for the transport of traffic from a</p>	<p>The parties have previously agreed that the IPs shall be located one at each party's central office (see Schedule 4.1); subsequent Cox IPs will be designated accordingly.</p> <p>The last clause ("provided that...") again attempts to force Cox to compensate</p>	See above.

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
		VZ-VA-IP to the Cox-IP, the Cox-IP shall be no further than a non-distance sensitive Entrance Facility away from the VZ-VA-IP.	VZ-VA for its delivery of terminating traffic to Cox. See above.	

3. 47 U.S.C. § 251(c)(6) and 47 C.F.R. § 51.223(A) do not permit VZ-VA to compel Cox to furnish VZ-VA collocation at Cox facilities in the same manner that VZ-VA, as an ILEC, is compelled to furnish Cox such collocation at VZ-VA facilities.

3.1	<p>4.3.4 VZ-VA shall have the sole right and discretion to specify the following method for Interconnection at any of the Cox-IPs:</p> <p>(a) an Entrance Facility leased from Cox (and any necessary multiplexing), to the Cox-IP.</p> <p>4.3.5 VZ-VA may order from Cox any Interconnection method specified above in accordance with the order intervals and other terms and conditions, including, without limitation, rates and charges, set forth in this Agreement, in any applicable Tariff(s), or as may be subsequently agreed to between the Parties.</p>	<p>4.3.4 VZ-VA shall have the sole right and discretion to specify any of the following methods for Interconnection at any of the Cox-IPs:</p> <p>(a) a physical, virtual or other alternative Collocation node VZ-VA establishes at the Cox-IP; and/or</p> <p>(b) a physical, virtual or other alternative Collocation node established separately at the Cox-IP by a third party with whom VZ-VA has contracted for such purposes; and/or</p> <p>(c) an Entrance Facility leased from Cox (and any necessary multiplexing), to the Cox-IP.</p> <p>4.3.5 VZ-VA shall provide its own facilities or purchase necessary transport for the delivery of traffic to any Virtual Collocation arrangement it establishes at a Cox-IP.</p> <p>4.3.6 VZ-VA may order from Cox any of the Interconnection methods specified above in accordance with the order intervals and other terms and conditions, including, without limitation, rates and charges, set forth in this Agreement, in any applicable Tariff(s), or as may be subsequently agreed to between the Parties.</p>	<p>Only VZ-VA is required to allow requesting CLECs to collocate the equipment necessary for interconnection or access to unbundled network elements. <i>See</i> 47 C.F.R. § 51.223(a) and 47 U.S.C. § 251(c)(6).</p> <p>Cox doesn't offer collocation for the purpose of reciprocal traffic exchange; Cox allows some customers to house their own equipment used in conjunction with products that they purchased from Cox, but on terms dissimilar to those required for interconnection.</p> <p>The Commission is prohibited from requiring Cox to provide collocation to VZ-VA. <i>See</i> 47 C.F.R. § 51.223(a).</p>	VZ-VA wants Cox to furnish VZ-VA collocation at Cox's premises.
3.2	[Propose to delete.]	13.10 Cox agrees to provide to VZ-VA, upon VZ-VA's request, Collocation of equipment for purposes of Interconnection (pursuant to	See above.	See above.

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
		Section 4) and Cross Connection on non-discriminatory rates, terms and conditions.		

4. Section 251(c)(2) of the Act does not permit VZ-VA to dictate the volume of traffic on a trunk group used by Cox to send traffic to a VZ-VA tandem switch for termination to a VZ-VA end office.

4.1	<p>5.2.4 In the event the one-way Tandem-routed traffic volume between any two Cox and VZ-VA Central Office Switches at any time exceeds the CCS busy hour equivalent of three DS-1s for any three (3) months in any consecutive six (6) month period or for any consecutive three (3) months, the originating Party will establish new one-way direct trunk groups to the applicable End Office(s) consistent with the grade of service parameters set forth in Section 5.5.</p>	<p>5.2.4 In the event the Tandem-routed traffic volume between any two Cox and VZ-VA Central Office Switches at any time exceeds the CCS busy hour equivalent of one DS-1 for any three (3) months in any consecutive six (6) month period or for any consecutive three (3) months, the originating Party will establish new one-way direct trunk groups to the applicable End Office(s) consistent with the grade of service and quality parameters set forth in the Joint Process.</p>	<p>The Act does not require Cox to interconnect with VZ-VA's EOs; rather, the Act states that it is the duty of each incumbent local exchange carrier "to provide for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier's network... at any technically feasible point within the carrier's network." 47 U.S.C. § 251(c)(2).</p> <p>VZ-VA subverts the plain meaning and intention of the Act by ignoring the FCC's instruction that CLECs may choose their points of interconnection based on their own efficiencies – and may not be required to interconnect at other, less inefficient points. <i>See</i> 1st R&O ¶209.</p> <p>VZ-VA confers upon itself the authority to impose its own, internal, engineering guidelines (based on its own</p>	<p>VZ-VA wants Cox to engineer its network in accordance with VZ-VA's internal engineering guidelines.</p>
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#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
			<p>economies of scale and facility costs) upon Cox. However, the economies surrounding VZ-VA's breakpoint/trigger for direct trunking within its own network do not apply to the costs and efficiencies applicable to Cox. Lacking VZ-VA's economy of scale, direct trunking thresholds must take into account the significant cost for Cox to build or lease facilities between its switch and the VZ-VA-IP.</p> <p>But in recognition of VZ-VA's fears regarding tandem exhaust (without agreeing that Cox's use of VZ-VA's Tandem contributes in any significant way to exhausting VZ-VA's tandem), Cox has agreed to limit the amount of traffic it passes to VZ-VA EOs via VZ-VA's tandems.</p>	

- 5. VZ-VA may not be permitted to treat dial-up calls to Internet service providers ("ISPs") as non-compensable traffic for purposes of reciprocal compensation; VZ-VA may not impose infeasible methods for determining toll versus local traffic.**

5.1	1.40 "Local Traffic" means traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that other Party's network	1.40 "Local Traffic" means traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that other Party's network	See below.	VZ-VA wants to exempt ISP-bound traffic from "Local Traffic" for the purposes of reciprocal
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#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
	within a given local calling area, or expanded area service ("EAS") area (based on the rate center point of the originating and terminating NPA-NXXs of the callers), as defined in VZ-VA's effective Customer Tariffs. For the purposes of Reciprocal Compensation, Local Traffic includes Internet Traffic.	within a given local calling area, or expanded area service ("EAS") area, as defined in VZ-VA's effective Customer Tariffs. For the purposes of Reciprocal Compensation, Local Traffic does not include any Internet Traffic.		compensation
5.2	5.7.1 ... The designation of traffic as Local Traffic for purposes of Reciprocal Compensation shall be based on the originating and terminating NPA-NXXs of the complete end-to-end communication. Reciprocal Compensation shall apply to Internet Traffic handed off from one Party to the other Party via the switched network for delivery to an Internet Service Provider ("ISP") for carriage over the Internet..	5.7.1 ...The designation of traffic as Local Traffic for purposes of Reciprocal Compensation shall be based on the originating and terminating points of the complete end-to-end communication.	<p>NXX-to-NXX is the only way (and the industry standard way) of determining jurisdiction – Cox's language just adds precision to the definition.</p> <p>The Act does not single out types of traffic to be excluded from reciprocal compensation, §(251(b)(5).</p> <p>The SCC has previously ruled that ISP traffic IS subject to recip comp. <i>See</i> Cox Petition re ISP compensation, PUC970069, 10/24/97.</p> <p>The Federal Circuit vacated and remanded the FCC's February, 1999, Declaratory Ruling in which it had adopted a "two call" theory for calls to ISPs. <i>See Verizon v. FCC</i>, 206 F.3d 1 (D.C. Cir. 2000).</p>	
5.3	5.7.4 The designation of traffic as Local or IntraLATA Toll for purposes of compensation shall be based on the horizontal and vertical coordinates associated with the originating and	[Propose to delete]	NXX-to-NXX is the only way (and the industry standard way) of determining the toll v. local	

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
	terminating NPA-NXXs of the call, regardless of the carrier(s) involved in carrying any segment of the call.		characteristics of a given call – Cox's language adds precision to the definition	

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
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6. VZ-VA may not require that Cox engineer and/or forecast VZ-VA's trunk groups.

6.1	<p>10.3.1 The Parties shall work towards the development of joint forecasting responsibilities for projecting traffic utilization over all trunk groups between the Parties. Cox forecast information (regarding traffic demand from Cox's to VZ-VA's network) must be provided by Cox to VZ-VA twice a year. At VZ-VA's option, VZ-VA forecast information (regarding traffic demand from VZ-VA's to Cox's network) may be provided by VZ-VA to Cox twice a year. The semi-annual forecasts shall include:</p> <p>(a) Yearly forecasted trunk quantities for a minimum of three (current and plus-1 and plus-2) years;</p> <p>(b) The use of Access Carrier Terminal Location ("ACTL"), traffic type (Local Traffic/Toll Traffic, Operator Services, 911, etc.), code (identifies trunk group), A location/Z location (CLLI codes for Cox-IP's and VZ-VA-IP's), interface type (e.g., DS1), and trunks in service each year (cumulative).</p> <p>10.3.2 In addition, VZ-VA and Cox shall exchange trunk engineering information twice a year regarding any major network projects anticipated for the following six months. Major network projects include trunking or network rearrangements, shifts in anticipated traffic patterns, or other activities that are reflected by a significant increase or decrease in trunking demand for the following forecasting period.</p> <p>10.3.3 If differences in semi-annual forecasts, or expectations regarding anticipated trunking</p>	<p>10.3.1 Trunk Administration. For Traffic Exchange Trunk groups, Cox will be responsible for monitoring traffic loads and service levels on the one-way trunk groups carrying traffic from Cox to VZ-VA; and VZ-VA will be responsible for monitoring traffic loads and service levels on the one-way trunk groups carrying traffic from VZ-VA to Cox. Cox will determine the sizing and timing of new trunk groups and trunk group additions for trunk groups carrying traffic from Cox to VZ-VA. VZ-VA will determine the sizing and timing of new trunk groups and trunk group additions for trunk groups carrying traffic from VZ-VA to Cox. When Cox is aware of unusual events affecting the volume of traffic and required trunks in either direction (e.g., Cox signs up a new Information Services Provider), Cox will contact VZ-VA to plan and implement (if necessary) new trunk groups and trunk group additions.</p> <p>10.3.2 Trunk Forecasts. Within ninety (90) days of the Effective Date, Cox shall provide VZ-VA a two (2) year traffic forecast of all Traffic Exchange Trunk groups over the next eight (8) quarters in accordance with the VZ-VA CLEC Interconnection Trunking Forecast Guide. Because the Customer segments and service segments within Customer segments to whom Cox markets its services are the most significant factors affecting the number of trunks needed to handle traffic volume in both directions, the Cox trunk forecast will include trunk groups carrying traffic from Cox to VZ-VA, and trunk groups carrying traffic from VZ-VA to Cox. Cox's forecast</p>	<p>Cox refuses to forecast VZ-VA's outbound traffic for VZ-VA: Cox hasn't the tools (e.g., engineering data) to do so; and Cox will not take on the additional expense of doing this for VZ-VA.</p> <p>Cox's proposal is consistent with industry practice (and consistent with VZ-VA's ICA with GTE in VA).</p>	<p>VZ-VA wants Cox to engineer and forecast VZ-VA's interconnection with Cox.</p>
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#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
	demand of the Parties vary by more than 24 additional (DS-0) trunks for each Traffic Exchange and Access Toll Connecting trunk group, the Parties shall meet to reconcile the forecast to within 24 (DS-0) trunks.	shall be updated and provided to VZ-VA on an as-needed basis but no less frequently than semiannually. Cox's forecast shall include, at a minimum, Access Carrier Terminal Location ("ACTL"), traffic type (Local Traffic/Toll Traffic, Operator Services, 911, etc.), code (identifies trunk group), A location/Z location (CLLI codes for Cox-IP's and VZ-VA-IP's), interface type (e.g., DS1), and trunks in service each year (cumulative). VZ-VA agrees that such forecasts shall be subject to the confidentiality provisions defined in Section .		

7. VZ-VA may not monitor or audit Cox's access to and use of customer propriety network information made available to Cox through the interconnection agreement.

7.1	[Propose to delete]	18.3.4 VZ-VA shall have the right to monitor and/or audit Cox's access to and use and/or disclosure of Customer Proprietary Network Information that is made available by VZ-VA to Cox pursuant to this Agreement to ascertain whether Cox is complying with the requirements of Applicable Law and this Agreement with regard to such access, use, and/or disclosure. To the extent permitted by Applicable Law, the foregoing right shall include, but not be limited to, the right to electronically monitor Cox's access to and use of Customer Proprietary Network Information that is made available by VZ-VA to Cox pursuant to this Agreement.	<p>Cox is bound Law and by this Agreement regarding Cox's use of CPNI and refuses to grant VZ-VA oversight in Cox's day-to-day compliance with same.</p> <p>VZ-VA has not been granted authority (and has no responsibility) to monitor Cox's compliance with the law and the ICA.</p> <p>Cox views this as harassment and an impediment to its right to obtain CPNI from VZ-VA (as required by law).</p>	VZ-VA wants to monitor Cox's access to and use of CPNI.
7.2	[Propose to delete.]	[Schedule 11.7 OSS] 1.6.5.1 Without in any way limiting subsection 18.3 of the Agreement, VZ-VA shall have the right (but not the obligation) to audit Cox to ascertain	See above.	See above.

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
		<p>whether Cox is complying with the requirements of Applicable Law and this Agreement with regard to Cox's access to, and use and disclosure of, VZ-VA OSS Information.</p> <p>[Schedule 11.7 OSS] 1.6.5.2 Without in any way limiting any other rights VZ-VA may have under the Agreement or Applicable Law, VZ-VA shall have the right (but not the obligation) to monitor Cox's access to and use of VZ-VA OSS Information which is made available by VZ-VA to Cox pursuant to this Agreement, to ascertain whether Cox is complying with the requirements of Applicable Law and this Agreement, with regard to Cox's access to, and use and disclosure of, such VZ-VA OSS Information. The foregoing right shall include, but not be limited to, the right (but not the obligation) to electronically monitor Cox's access to and use of VZ-VA OSS Information which is made available by VZ-VA to Cox through VZ-VA OSS Facilities.</p>		

8. VZ-VA may not place caps on the rates and charges that Cox may assess for its services, facilities and arrangements.

8.1	[Propose to delete]	20.3 ...; provided, further that Cox may not charge VZ-VA a rate higher than the VZ-VA rates and charges for the same services, facilities and arrangements.	Such a limitation on Cox's rates is not supported by the Act or state regulation.	VZ-VA wants to place caps on the rates and charges that Cox may assess.
8.2	<p>EXHIBIT A</p> <p>X. All Other Cox Services Available to VZ-VA for Purposes of Effectuating Interconnection:</p> <p>Available at Cox's tariffed or otherwise generally available rates.</p>	<p>EXHIBIT A</p> <p>X. All Other [CLEC] Services Available to Verizon:</p> <p>Available at [CLEC]'s tariffed or otherwise generally available rates, not to exceed Verizon's rates for equivalent services available to [CLEC], unless [CLEC] cost</p>	See above.	See above.

#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
		justifies a higher rate.		

9. VZ-VA may not lawfully impose a statement of generally available terms as a default mechanism upon the termination of the renewal agreement being negotiated by the parties.

9.1	22.3 Upon the expiration of the Initial Term or at any time thereafter, either Party may terminate this Agreement by providing written notice of termination to the other Party, such written notice to be received at least three (3) months, in advance of the date of termination. In the event of such termination the service arrangements made available under this Agreement and existing at the time of termination shall, unless otherwise agreed to by the Parties, continue without interruption under the terms of this Agreement on a month-to-month basis until the Effective Date of the new agreement.	22.3 Upon the expiration of the Initial Term or at any time thereafter, either Party may terminate this Agreement by providing written notice of termination to the other Party, such written notice to be received at least three (3) months, but not greater than nine (9) months, in advance of the date of termination. In the event of such termination, if neither Party has requested renegotiation of a new interconnection agreement, the service arrangements made available under this Agreement and existing at the time of termination shall, unless otherwise agreed to by the Parties, continue without interruption under (a) standard Interconnection terms and conditions approved and made generally effective by the Commission, (b) Tariff terms and conditions generally available to CLECs or (c) if none of the above is available, under the terms of this Agreement on a month-to-month basis until such time as a new agreement is entered into, or if no agreement is entered into, until (a) or (b) becomes available.	Cox has agreed (in 22.4) to lock-in 252 negotiations upon request – if 252 process does not result in a new ICA w/in timeframe anticipated, adoption of an SGAT-like arrangement would create for Cox (and only Cox) a significant burden in attempting to (temporarily) conform to additional terms & conditions not negotiated or agreed to by Cox. VZ-VA does not yet have an approved SGAT on file with the Commission, so Cox should not be compelled to adopt unseen and untested provisions.	VZ-VA wants Cox to temporarily reconfigure its existing interconnection arrangement with VZ-VA while negotiating a renewal agreement under the Act.
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10. VZ-VA may not summarily terminate Cox's access to OSS for Cox's alleged failure to cure its breach of Schedule 11.7 or Sections 1.5 or 1.6.

10.1	[Schedule 11.7 OSS] 1.7.1 Any breach by Cox, or Cox's employees, agents or contractors, of the provisions of Sections 1.5 or 1.6 above shall be deemed a material breach of the Agreement. In addition, if Cox or an employee, agent or contractor of Cox at	[Schedule 11.7 OSS] 1.7.1 The Parties will attempt to correct any instance of non-compliance through direct informal means within two (2) business days. If resolution is not obtained through informal means within two (2) business days, the Parties will pursue	Cox believes that VZ-VA's proposal to suspend Cox's access to VZ-VA's OSS is too severe – the effect of such suspension too great. The standard termination	VZ-VA wants to terminate Cox's access to VZ-VA's OSS by employing processes and timeframes shorter than those agreed to by both parties for all other
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#	Cox Language	VZ-VA Language	Cox's Position	VZ-VA's Position
	any time breaches a provision of Sections 1.5 or 1.6 above, then, except as otherwise required by Applicable Law and in accordance with Section 22.5, VZ-VA shall have the right, upon notice to Cox, to suspend the license to use VZ-VA OSS Information granted by Section 1.6.1 above and/or the provision of VZ-VA OSS Services, in whole or in part.	resolution using the process described in 28.9 (Dispute Resolution), of the Interconnection Agreement and will attempt to resolve the non-compliance within ten (10) days after written notice thereof from VZ-VA. In addition, if Cox or an employee, agent or contractor of Cox at any time breaches a provision of Sections 1.5 or 1.6 above and such breach continues for more than ten (10) days after written notice thereof from VZ-VA, then, except as otherwise required by Applicable Law, VZ-VA shall have the right, upon notice to Cox, to suspend the license to use VZ-VA OSS Information granted by Section 1.6.1 above and/or the provision of VZ-VA OSS Services, in whole or in part.	clause should apply. If VZ-VA fears system harm (such that OSS integrity or access to OSS is threatened or impacted) other sections of the ICA, i.e., 9.3 Repeated or Willful Interference or Impairment provide mechanism for immediate (or near term) protection of the OSS.	instances of alleged non-compliance.

11. VZ-VZ may not exclude from the interconnection agreement rates, terms and conditions relating to the transit traffic arrangement adopted under FCC merger conditions.

11.1	7.3 Tandem Transit Traffic Service ("Transit Service") VZ-VA shall make available to Cox the Transit Service as described in Schedule 7.3.	[Propose to delete.]	See below.	See below.
11.2	SCHEDULE 7.3 TRANSIT SERVICE The Parties acknowledge Cox's adoption, pursuant to Section 252(i) of the Act and Section IX of the Merger Conditions of " <u>In re Application of GTE Corporation, Transferor, and Verizon Corporation, Transferee, For Consent to Transfer of Control of Domestic and International Section 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License</u> ", Memorandum Opinion and Order, FCC CC Docket No. 98-184, (June 16, 2000), of the following arrangement (from Subsections 7.2 and 5.3.2) provided by VZ-VA in the " <u>Interconnection Agreement under</u>	[Propose to delete.]	All rates, terms and conditions dealing with interconnection, resale and access to unbundled network elements should be included in the interconnection agreement or in an amendment thereto.	VZ-VA has agreed to provide Cox the arrangement described in Schedule 7.3 but has rejected Cox's proposal to include a provision in the interconnection agreement discussing this arrangement. Instead, VZ-VA insists that the issue of adopting these terms and conditions must be handled outside the interconnection agreement.